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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Masatoshi Okazaki

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EXAMINER

LUKS, JEREMY AUSTIN

ART UNIT

PAPER NUMBER

2832

MAIL DATE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/576,964	Applicant(s) OKAZAKI ET AL.	
	Examiner JEREMY LUKS	Art Unit 2832	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,7-13,16-22,25-32 and 40-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,7-13,16-22,25-32 and 40-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 2, 7-13, 16-22, 25-32 and 40-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA (Applicant's Admitted Prior Art, Specification, Pages 1-6) in view of Johnston (4,518,642) and Hiroshima (6,059,926).

With respect to Claims 1, 2, 13, 22, 31, 40 and 43, AAPA teaches electronic equipment comprising a speaker (Specification, Page 4, Line 24 – Page 5, Line 4), wherein said speaker includes a diaphragm and a dust cap (Page 5, Lines 5-21), and each of said diaphragm and said dust cap is an injection-molded product made of a mixture containing a thermoplastic polypropylene resin material (Page 4, Lines 1-20), which is inherently a crystalline olefin resin (See U.S. Patent 6,596,783 for example which discusses at length that polypropylene is a thermoplastic crystalline resin, and further, it is well known that polypropylene is a type of olefin) and a fiber material (Page 5, Lines 18-25 – the Examiner considers a pulp (raw material of paper) to be a fiber material); wherein it is known to add a secondary granular thermoplastic resin to a primary thermoplastic resin (Specification, Page 4, Lines 1-20). AAPA fails to teach wherein said fiber material consists of one of bamboo and bamboo leaf; wherein the granular thermoplastic resin is mixed with the primary composite of thermoplastic resin

Art Unit: 2832

and fiber material, said primary composite material being formed of a dehydrated wet-mixture of fibrous thermoplastic resin and said fiber material. Johnston teaches wherein it is known to form a speaker diaphragm and dust cap when used in combination, of a mixture containing a thermoplastic crystalline olefin resin material (polypropylene) and a cellulose fiber material (Col. 2, Lines 4-10),; and when used in combination mixture being constituted by a secondary composite formed of a complex of a primary composite material with granular thermoplastic resin (of AAPA as indicated above), and wherein it is known to provide a primary composite material being formed of a dehydrated wet-mixture of fibrous thermoplastic resin and said fiber material (when combined with AAPA) (Col. 4, Lines 29-65). Because AAPA teaches that the speaker diaphragm and dust cap are formed from the same materials, the combination teaches that the Johnston material can be used to form both a speaker diaphragm and dust cap. Further, the Examiner considers it well known in the art that these two elements are formed from the same materials. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the apparatus of AAPA, with the apparatus of Johnston to combine the advantageous frequency response and humidity insensitivity characteristics of thermoplastic diaphragms with the advantageous low mass, low cost and temperature characteristics of paper diaphragms. Further, regarding formation of materials (i.e. dehydrated wet mixture), the method of forming a device is not germane to the issue of patentability of the device itself. Therefore, this limitation has been given little patentable weight. Hiroshima teaches a speaker diaphragm having a fiber material consisting of bamboo (Col.2, Lines 41-48; Col. 4,

Lines 29-39). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the apparatus of AAPA as modified, with the apparatus of Hiroshima to provide simple substitution of one known cellulose fiber material for another provide the predictable result of the fibers functioning to provide a diaphragm and dust cap having good physical properties.

With respect to Claims 7, 16 and 25, AAPA teaches wherein it is known to provide a mixture including reinforcement (Page 1, Line 24 – Page 2, Line 3). Further, the fiber material taught by Johnston (Page 2, Lines 4-10) could be considered reinforcement.

With respect to Claims 8, 17 and 26 Johnston teaches said fiber material has a fiber length of 0.2 mm to 20 mm (Col. 3, Lines 48-57). Further, a change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955). Still further, it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or working range involves only routine skill in the art. In re Aller, 105 USPQ 233.

With respect to Claims 9, 18 and 27 Johnston teaches said mixture contains 5% to 70% by weight of said fiber material (Col. 3, Lines 60-68).

With respect to Claims 10-12, 19-21, 28-30, 41 and 42, AAPA and Johnston are relied upon for the reasons and disclosures set forth above. AAPA and Johnston fail to teach wherein said diaphragm and said dust cap is black or natural color; wherein in said diaphragm and said dust cap, said thermoplastic resin material and said fiber material are different in color from each other; and wherein in said diaphragm and said

Art Unit: 2832

dust cap, said thermoplastic resin material is transparent or semi-transparent.

However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide wherein said diaphragm and said dust cap is black or natural color; wherein in said diaphragm and said dust cap, said thermoplastic resin material and said fiber material are different in color from each other; and wherein in said diaphragm and said dust cap, said thermoplastic resin material is transparent or semi-transparent, since the courts have stated that matters relating to ornamentation only which have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art. *In re Seid*, 161 F.2d 229, 73 USPQ 431 (CCPA 1947).

With respect to Claim 32, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. If the prior art structure is capable of performing the intended use, then it meets the claim. *Ex Parte Masham*, 2 USPQ F.2d 1647 (1987). Further, the Examiner considers it well known to mount an electronic speaker device on or in a car.

Response to Arguments

2. Applicant's arguments with respect to claims 1, 2, 7-13, 16-22, 25-32 and 40-43 have been considered but are moot in view of the new ground(s) of rejection. The Examiner considers the obvious combination of AAPA, Johnston and Hiroshima to teach all of the limitations as claimed by Applicant.

Art Unit: 2832

3. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pertinent arts of record are disclosed in the PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy Luks whose telephone number is (571) 272-2707. The examiner can normally be reached on Monday-Thursday 8:30-6:00, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2832

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeremy Luks/
Examiner, Art Unit 2832

/Jeffrey Donels/
Primary Examiner, Art Unit 2832